

# In the Supreme Court of the State of Idaho

IN RE: AMENDMENT OF IDAHO  
INFRACTION RULES 5(c) and 9(b)

ORDER

The 2010 Idaho Legislature having passed House Bill 687, and the Court having reviewed proposed amendments to the Idaho Infraction Rules, and the Court having fully considered the same;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Idaho Infraction Rules as they appear in the volume published by the Idaho Code Commission be, and they are hereby, amended as follows:

1. That Infraction Rule 5(c) be, and the same is hereby, amended to read as follows:

**Rule 5. Uniform citation – Issuance – Service – Form – Number – Distribution.**

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(c) **Service of Citation.** Service of a citation may be made by the defendant signing a written promise to appear on the citation at the time indicated, but if the defendant fails or refuses to sign the written promise to appear, or an electronic citation is issued, a peace officer may serve the citation on the defendant by personal delivery to the defendant and indicate such service on the face of the citation.

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2. That Infraction Rule 9(b) be, and the same is hereby, repealed in its entirety and a NEW Rule 9(b) adopted to read as follows:

**Rule 9. Judgment – Fixed penalty plus court costs for infractions-- Withheld judgment and suspended penalties prohibited—Deferred payment agreements.**

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(b) **Fixed Penalty and Costs for Infraction.** The entry of a judgment for an infraction under this rule shall order the defendant to pay a dollar amount for a fixed penalty and court costs in the following amounts:

INFRACTION OFFENSETOTAL AMOUNT  
(Fixed Penalty Plus Court Costs)

- (1)(a) Failure to fasten safety restraint, operator/occupant age 18 or older, Section 49-673(3), Idaho Code. (Fixed penalty \$10.00, \$5.00 of which is to be sent to State's Catastrophic Health Care Fund). \$10.00
- (b) Failure to fasten safety restraint, operator 18 years or older with occupant(s) under 18 years of age failing to wear safety restraint. Section 49-673(3), Idaho Code. (Fixed penalty \$10.00, \$5.00 of which is to be sent to State's Catastrophic Health Care Fund). \$10.00
- (c) Failure to fasten safety restraint, operator under 18 years of age or operator under 18 who has occupant(s) under 18 years of age failing to wear safety restraint-single citation only, Section 49-673(4), Idaho Code. (Fixed penalty \$10.00, \$5.00 of which is to be sent to State's Catastrophic Health Care Fund, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, ISTARs technology fund fee \$10.00, and emergency surcharge fee \$10.00). \$61.50
- (2) Failure to restrain child in car safety seat. Section 49-672, Idaho Code. (Fixed penalty \$27.50, court costs \$16.50, I.C., § 31-3201A(c), county justice fund fee \$5.00 I.C. § 31-3201(3), and, peace officers training fee \$10.00 I.C. § 31-3201B, ISTARs technology fund fee \$10.00 I.C. § 31-3201(5), and emergency surcharge fee \$10.00). \$79.00
- (3) Pedestrian and bicycle infractions. (Fixed penalty \$5.00, court costs \$16.50 county justice fund fee \$5.00, peace officers training fee \$10.00, ISTARs technology fund fee \$10.00, and emergency surcharge fee \$10.00). \$56.50
- (4) Speeding traffic infractions.  
    (a) 1 to 15 miles per hour above speed Limit. (Fixed penalty \$33.50, court costs \$16.50, county justice fund

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| <p>fee \$5.00, peace officers training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p> <p>(b) 16 or more miles per hour above speed limit. (Fixed penalty \$98.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p> | <p>\$85.00</p> <p>\$150.00</p> |
| <p>(5) Other moving traffic infractions. (Fixed penalty \$33.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>  | <p>\$85.00</p>                 |
| <p>(6) Speeding in a construction zone. I.C. § 49-657 (Fixed penalty \$50.00, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>   | <p>\$101.50</p>                |
| <p>(7) Speeding in a school zone. I.C. § 49-658 (Fixed penalty \$100.00, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>  | <p>\$151.50</p>                |
| <p>(8) Permitting unauthorized child under age 18 to operate vehicle. Section 49-333(1), Idaho Code. (Fixed penalty \$54.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>  | <p>\$106.00</p>                |
| <p>(9) Permitting any unauthorized person to operate vehicle. Section 49-333(2), Idaho Code. (Fixed penalty \$54.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>  | <p>\$106.00</p>                |
| <p>(10) Renting vehicle to unauthorized driver or failing to inspect license. Section 49-334, Idaho Code. (Fixed penalty \$54.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>   | <p>\$106.00</p>                |

- (11) Expired license. Section 49-319, Idaho Code.  
(Fixed penalty \$44.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00). \$96.00
- (12) Violating restricted license. Section 49-317, Idaho Code. (Fixed penalty \$44.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00). \$96.00
- (13) Operating vehicle under out of state license while suspended. Section 49-329, Idaho Code. (Fixed penalty \$100.00, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00). \$151.50
- (14) Failure to carry registration in vehicle (dismissed if registration is shown). Section 49-427, Idaho Code. (Fixed penalty \$10.50, court costs \$16.50, county justice fund \$5.00, peace officers training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00). \$62.00
- (15) Failure to display license plate. Section 49-428, Idaho Code. (Fixed penalty \$10.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00). \$62.00
- (16) Operating vehicle without registration. Section 49-456(1), Idaho Code. (Fixed penalty \$44.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00). \$96.00
- (17) Fictitious display of license plates. Section 49-456(2), Idaho Code, (Fixed penalty \$58.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00). \$110.00
- (18) Lending or permitting another to use registration or license plate. Section 49-456(3), Idaho Code. (Fixed penalty \$58.50, court costs \$16.50, county justice fund \$5.00, peace officers training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00). \$110.00
- (19) Failing to surrender registration and license plate upon revocation or suspension.

- Section 49-456(4), Idaho Code. (Fixed penalty \$44.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, ISTARs technology fund fee \$10.00), and emergency surcharge fee \$10.00). \$96.00
- (20) Use of false or fictitious name in application for registration or concealing material facts. Section 49-456(5), Idaho Code. (Fixed penalty \$100.00, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, ISTARs technology fund fee \$10.00, and emergency surcharge fee \$10.00). \$151.50
- (21) Failure to redeem an abandoned vehicle. Section 49-1802, Idaho Code. (Fixed penalty \$10.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, ISTARs technology fund fee \$10.00, abandoned vehicle fee \$150.00, and emergency surcharge fee \$10.00). \$212.00
- (22) Non-moving traffic infractions. (Fixed penalty \$10.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, ISTARs technology fund fee \$10.00, and emergency surcharge fee \$10.00). \$62.00
- (23) Special parking infractions. Recreational parking. Section 67-7115, Idaho Code, and illegal parking in state park, Section 67-4237 Idaho Code, (Fixed penalty \$25.00, court costs \$16.50, county justice fund fee \$5.00, ISTARs technology fund fee \$10.00, and emergency surcharge fee \$10.00 -- No peace officers training fee). \$66.50
- (24) Disability parking violations. Unauthorized disability parking, Section 49-213, Idaho Code, and unauthorized use of disability plate or placard, Section 49-410, Idaho Code. (Fixed penalty \$100.00, court costs \$16.50, county justice fund fee \$5.00, ISTARs technology fund fee \$10.00, and emergency surcharge fee \$10.00 -- No peace officers training fee). \$141.50
- (25) Other parking infractions and failure to pay parking infractions unless otherwise provided by statute or ordinance. (Fixed penalty \$5.00, court costs \$16.50, county justice fund fee \$5.00, ISTARs technology fund fee \$10.00, and emergency surcharge fee \$10.00 -- No peace officers training fee). \$46.50
- (26) Operating a motor vehicle without insurance. Sections 49-1229 and 49-1428, Idaho Code and failure to have certificate of insurance, Section 49-1232, Idaho Code, (First offense only, second or subsequent offense is a misdemeanor. (Fixed penalty \$75.00, court costs \$16.50, county justice

fund fee \$5.00, peace officers training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00).	\$126.50
(27) Trucking overweight. Section 49-438, Idaho Code, and Sections 49-1001, 49-1002, 49-1004, 49-1005, Idaho Code. 1-1000 pounds overweight (Fixed penalty \$5.00, court costs \$16.50, county justice fund \$5.00, peace officers training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00.)	\$56.50
1001-2000 pounds overweight (Fixed penalty \$15.00, court costs \$16.50, county justice fund \$5.00, peace officers training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00.)	\$66.50
2001-4000 pounds overweight (Fixed penalty \$25.00, court costs \$16.50, county justice fund \$5.00, peace officer's training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00.)	\$76.50
For multiple infractions see I.C. § 49-1013(4).	
(28) Fish and game violations made infractions by Section 36-1401, Idaho Code. (Fixed penalty \$15.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00).	\$67.00
(29) All-terrain vehicle and snowmobile infractions. Driving on highway. Section 67-7109, Idaho Code (Fixed penalty \$100.00, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00).	\$151.50
(30) Parks and recreation violations made infractions by Section 67-4223, Idaho Code. (Fixed penalty \$15.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00).	\$67.00
(31) All other all-terrain vehicle and snowmobile infractions. Sections 67-7102 through 67-7112, 67-7122, 67-7125, Idaho Code. (Fixed penalty \$25.00, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, ISTARS technology fund fee \$10.00, and emergency surcharge fee \$10.00).	\$76.50
(32) Renting a watercraft without safety devices and safety decal. Section 67-7078 (Fixed penalty \$25.00, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00,	

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| ISTARS technology fund fee \$10.00, and<br>emergency surcharge fee \$10.00).  | \$76.50  |
| (33) Failure to carry required equipment in watercraft.<br>(IDAPA 26.01.30 Parks and Recreation) Sections<br>67-7002 and 67-7015, Idaho Code. (Fixed<br>penalty \$42.50, court costs \$16.50, county justice<br>fund fee \$5.00, peace officers training fee \$10.00,<br>ISTARS technology fund fee \$10.00, and<br>emergency surcharge fee \$10.00). | \$94.00  |
| (34) Improper waterskiing. Section 67-7024,<br>Idaho Code. (Fixed penalty \$42.50, court costs<br>\$16.50, county justice fund fee \$5.00, peace<br>officers training fee \$10.00, ISTARS technology<br>fund fee \$10.00, and emergency surcharge fee<br>\$10.00).  | \$94.00  |
| (35) Permitting smoking in public building or<br>office. Section 39-5506, Idaho Code.<br>(Fixed penalty \$67.50, court costs \$16.50,<br>county justice fund fee \$5.00, peace officer<br>training fee \$10.00, ISTARS technology<br>fund fee \$10.00, and emergency surcharge<br>fee \$10.00).   | \$119.00 |
| (36) Refusing to extinguish tobacco<br>product in public building or office. Section<br>39-5507, Idaho Code. (Fixed penalty \$17.50,<br>court costs \$16.50, county justice fund<br>fee \$5.00, peace officer training fee \$10.00,<br>ISTARS technology fund fee \$10.00, and<br>emergency surcharge fee \$10.00).                                   | \$69.00  |
| (37) Other infractions. (Fixed penalty \$15.50,<br>court costs \$16.50, county justice fund fee<br>\$5.00, peace officers training fee \$10.00,<br>ISTARS technology fund fee \$10.00, and<br>emergency surcharge fee \$10.00).   | \$67.00  |

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IT IS FURTHER ORDERED, that this order and these amendments shall be effective the 15<sup>th</sup> day of April, 2010.

IT IS FURTHER ORDERED, that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered a part of the permanent Idaho Infraction Rules.

IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of this Order to be published in one issue of *The Advocate*.

DATED this 2<sup>nd</sup> day of April, 2010.

By Order of the Supreme Court

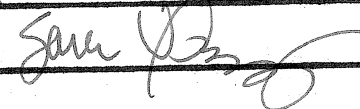
  
Daniel T. Eismann,  
Chief Justice

ATTEST:   
Clerk

I, Stephen W. Kenyon, Clerk of the Supreme Court of the State of Idaho, do hereby certify that the above is a true and correct copy of the Order entered in the above entitled cause and now on record in my office.  
WITNESS my hand and the Seal of this Court 4/2/10

STEPHEN W. KENYON

Clerk

By:  Deputy